

1 Kristin K. Mayes
Attorney General
2 Firm State Bar No. 14000

3 Ryan Bishop (SBN 036195)
4 OFFICE OF THE ATTORNEY GENERAL
400 West Congress Street, Suite S-315
5 Tucson, AZ 85701
Telephone: (520) 628-6870
6 Civilrights@azag.gov
7 Ryan.Bishop@azag.gov

8 Tarah White (SBN 029389)
9 OFFICE OF THE ATTORNEY GENERAL
2005 N. Central Avenue
10 Phoenix, AZ 85004
Telephone: (602) 542-8608
11 Tarah.White@azag.gov
12 Assistant Attorneys General
Attorneys for Plaintiff

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 STATE OF ARIZONA, *ex rel.* KRISTIN K.
17 MAYES, the Attorney General, and the CIVIL
18 RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,
19 Plaintiff,

20 vs.

21 OLIVE BRANCH ASSISTED LIVING, LLC,
an Arizona Limited Liability Company,
22 TERRA MEDICAL OF ARIZONA LLC, an
Arizona Limited Liability Company, TERRA
23 MEDICAL LLC, a Wyoming Limited Liability
Company, and RUSSELL APPLETON,
24 individually and in his capacity as proprietor of
the preceding entities,

25 Defendants.
26

Case No.:

Complaint

(Jury Trial Requested)

1 Plaintiff, the State of Arizona, *ex rel.* Kristin K. Mayes, the Attorney General, and the
2 Civil Rights Division of the Arizona Department of Law (collectively, “the State”) alleges and
3 states, as follows:

4 **INTRODUCTION**

5 1. The State brings this public enforcement action under the Arizona Fair Housing
6 Act (“AFHA”), A.R.S. §§ 41-1491 to 41-1491.37, to correct an unlawful housing practice,
7 redress the injuries of an aggrieved party, and vindicate the public interest.

8 2. The State brings this public enforcement action because Defendants Olive Branch
9 Assisted Living, LLC, Terra Medical LLC, Terra Medical of Arizona LLC, and Russell Appleton
10 (“Appleton”) (collectively, “Defendants”) discriminated against complainant [REDACTED] (“[REDACTED]”)
11 by subjecting her to disparate treatment because of her disability, in violation of A.R.S. §§ 41-
12 1491.19(A)-(B), and coercing, intimidating, threatening, or interfering with her fair housing
13 rights in violation of A.R.S. § 41-1491.18.

14 **JURISDICTION AND VENUE**

15 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1491.34(A).

16 4. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

17 **PARTIES**

18 5. The Civil Rights Division of the Arizona Department of Law (the “Division”) is an
19 administrative agency of the State of Arizona established by A.R.S. § 41-1401 to administer and
20 enforce the provisions of the Arizona Civil Rights Act, A.R.S. § 41-1401 *et seq*, including the
21 AFHA.

22 6. The State brings this action on its own behalf and on behalf of [REDACTED], an aggrieved
23 person under A.R.S. § 41-1491(1)(a).

24 7. Defendants Olive Branch Assisted Living, LLC (“Olive Branch”) and Terra
25 Medical of Arizona LLC are Arizona limited liability companies. Defendant Terra Medical LLC
26 is a Wyoming limited liability company. All three entities do business in Arizona and are each a

1 person as defined by A.R.S. § 41-1491(9).

2 8. Defendant Terra Medical LLC, a Wyoming limited liability company, is the parent
3 company of Defendant Terra Medical of Arizona, LLC, an Arizona limited liability company.
4 Defendant Terra Medical of Arizona, LLC is the parent company of Defendant Olive Branch, an
5 Arizona limited liability company. At all times relevant to the allegations in this Complaint,
6 Defendant Appleton was acting as the principal and proprietor of these three entities.

7 **GENERAL ALLEGATIONS**

8 9. At all times relevant to the allegations in this Complaint, Defendants operated a
9 behavioral health residential facility at 1121 N. Olive Avenue, Casa Grande, AZ 85122 (the
10 “Subject Property”).

11 10. ■ is diagnosed with, and/or has a record of being diagnosed with, mental
12 conditions and Human Immunodeficiency Virus (“HIV”), both of which substantially limit ■
13 in one or more major life activities, and ■ is thus a person with a disability as defined by A.R.S.
14 § 41-1491(5).

15 11. On or about October 18, 2022, ■ began residing at the Subject Property.

16 12. ■ intended to reside at the Subject Property long-term, for about one year. While
17 living at the Subject Property, ■ slept there, cooked meals, attended meetings, did chores, and
18 celebrated holidays with other residents.

19 13. ■ learned of her HIV diagnosis on or about November 4, 2022.

20 14. At roughly the same time, Defendants learned of ■’s HIV diagnosis.

21 15. Within a few hours after learning of ■’s diagnosis, Appleton called a meeting at
22 the Subject Property and disclosed to all residents that someone living at the Subject Property
23 had tested positive for HIV, a public disclosure that caused ■ to immediately break down into
24 tears.

25 16. On or about November 4, 2022, Defendants decided that ■ was no longer allowed
26 to reside at the Subject Property because she had HIV.

1 17. On or about November 4, 2022, Appleton informed ■ that Defendants' facility
2 would not house or provide treatment to her; demanding ■ choose between removing herself
3 from the Subject Property or transferring to a different behavioral health residential facility.

4 18. On or about November 7, 2022, ■ transferred to a different residential health
5 facility.

6 19. On April 20, 2023, ■ timely filed a housing discrimination complaint with the
7 Division, alleging that Defendants discriminated against her by removing her from the Subject
8 Property and otherwise subjecting her to disparate treatment because of disability, in violation of
9 A.R.S. §§ 41-1491.19(A)-(B).

10 20. On or about October 16, 2023, ■ filed a lawsuit against Defendant Olive Branch
11 in Arizona District Court (2:23-cv-02154-SRB) under the AFHA, the federal Fair Housing Act,
12 and the Americans with Disabilities Act, alleging Olive Branch discriminated against her because
13 of her disability.

14 21. On November 13, 2023, Olive Branch's general counsel and statutory agent for
15 Appleton's entities, Ely Sluder ("Sluder"), emailed ■'s counsel the following:

16 If my client is forced to hire litigation counsel to defend this nonsense, he's going to
17 countersue for defamation per se, seek attorneys fees, and Rule 11 sanctions against you.
18 I'm not threatening you because it's certainly not going to be me doing any of it. I'm just
19 telling you the truth about my client, who I've had for more than a decade. He's a hard-
20 headed Navy squid, just like my father. (#GoArmy.)

21 Do you defend countersuits on contingency? [...]

22 I will let you know as soon as I hear back from the AG's office but am having a really hard
23 time seeing how Ms. ■'s case has any merit whatsoever. As such, I will be issuing a
24 formal "frivolous lawsuit letter" to you ASAP reiterating everything in this email and
25 below. It will also establish that pursuing the claim will constitute willful and malicious
26 injury to my client, which will lay the groundwork for a [sic] my client to pursue collection
of his eventual judgment against Ms. ■ even if she seeks bankruptcy protection.

27 22. On or about November 21, 2023, Sluder emailed ■'s counsel again to threaten
her for complaining about discrimination, stating:

1 My client has ample funds to afford a litigation attorney to countersue your client into
2 bankruptcy, then pursue a judgment as non-dischargeable, which is exactly what is going
3 to happen if this lawsuit isn't dismissed when the AG determines that the fair housing laws
4 don't apply.

5 23. On December 17, 2023, Olive Branch filed a defamation counterclaim against ■■■,
6 thereby retaliating against ■■■ for engaging in protected activities—filing a complaint of housing
7 discrimination with the Division and filing her own lawsuit alleging discrimination—by
8 coercing, intimidating, threatening, or interfering with ■■■ in her exercise of her fair housing
9 rights, in violation of the A.R.S. § 41-1491.18.

10 24. On July 24, 2024, Olive Branch stipulated to dismiss its defamation counterclaim
11 with prejudice.

12 25. On September 27, 2024, following an investigation by the Division conducted
13 pursuant to A.R.S. §§ 41-1491.24 and 41-1491.29(A), the Division found reasonable cause to
14 believe that Defendants discriminated against ■■■ because of ■■■'s disability and coerced,
15 intimidated, threatened, or interfered with ■■■'s fair housing rights, in violation of the AFHA.

16 26. The Division issued a reasonable cause determination, and since that time, the
17 State, ■■■, and Defendants have not entered into a conciliation agreement, necessitating the filing
18 of this Complaint under A.R.S. § 41-1491.29(D).

19 **COUNT I**

20 **Discrimination in Violation of A.R.S. §§ 41-1491.19(A, B)**

21 **Discriminatory Housing Denial Based on Disability**

22 27. The State realleges and incorporates by reference the allegations contained in the
23 preceding paragraphs of this Complaint.

24 28. Under A.R.S. § 41-1491.19(A) it unlawful for a person to discriminate in the sale
25 or rental or to otherwise make unavailable or deny a dwelling to any buyer, renter, or person
26 residing in the dwelling because of that person's disability.

29. Defendants are persons as defined in A.R.S. § 41-1491(9).

1 30. ■ is a person with a disability as defined in A.R.S. § 41-1491(5).

2 31. The Subject Property is a dwelling as defined in A.R.S. § 41-1491(7)(a), and ■
3 resided at the Subject Property as stated in A.R.S. § 41-1491.19(A, B) .

4 32. Defendants forced ■ to leave the Subject Property because ■ had HIV.

5 33. Defendants engaged in unlawful housing discrimination in violation of A.R.S. §
6 41-1491.19(A) when Defendants denied ■ housing at the Subject Property; discriminating
7 against her in the sale or rental of a dwelling and otherwise making a dwelling unavailable to ■
8 because of ■'s disability.

9 34. Defendants engaged in unlawful housing discrimination in violation of A.R.S. §
10 41-1491.19(B) when Defendants discriminated against ■ in the terms, conditions, privileges,
11 or provision of services or facilities in connection with the dwelling because of ■'s disability.

12 35. As a result of Defendants' discrimination, ■ suffered actual and compensatory
13 damages, including lost housing opportunities, garden variety emotional distress, humiliation,
14 embarrassment, inconvenience, and loss of her rights under the AFHA. To remedy the effects of
15 Defendants' discrimination, ■ is entitled to relief under A.R.S. § 41-1491.34(C).

16 36. Punitive damages are appropriate because Defendants intentionally discriminated
17 against ■ because of her disability and Defendants acted with callous disregard of or reckless
18 indifference to ■'s civil rights.

19 **COUNT II**

20 **Coercion, Intimidation, Threats, and Interference with Housing Rights**

21 **in Violation of A.R.S. § 41-1491.18**

22 37. The State realleges and incorporates by reference the allegations contained in the
23 preceding paragraphs of this complaint.

24 38. Under A.R.S. § 41-1491.18, a person may not coerce, intimidate, threaten, or
25 interfere with any person in the exercise or enjoyment of, or having exercised or enjoyed, any
26 right granted or protected under the AFHA.

1 C. Order Defendants to institute and carry out policies and practices that provide equal
2 housing opportunities for people with disabilities by allowing them to reside in Defendants'
3 facilities regardless of their disabilities and by granting necessary reasonable accommodations;

4 D. Order Appleton and Defendants' agents to undergo training regarding the duty to
5 provide housing to all individuals regardless of their disability and the duty to provide reasonable
6 accommodations under the AFHA;

7 E. Order Defendants to make ■ whole for any damages suffered and award her
8 actual and punitive damages in amounts to be determined at trial pursuant to A.R.S. §§ 41-
9 1491.33 and 41-1491.34(C);

10 F. Issue an Order authorizing the State to monitor Defendants' compliance with the
11 AFHA;

12 G. Award the State its taxable costs incurred in bringing this action; and,

13 H. Grant such other and further relief as this Court may deem just and proper in the
14 public interest.

15 DATED this 28th day of October, 2024.

16 KRISTIN K. MAYES
17 Attorney General

18 By: /s/ Ryan Bishop
19 Ryan Bishop
20 Tarah White
21 Attorneys for the State
22
23
24
25
26